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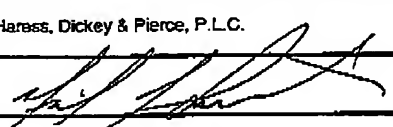
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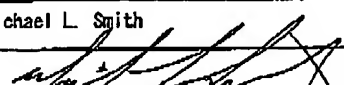
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| TRANSMITTAL FORM <i>(to be used for all correspondence after initial filing)</i> | Application Number | 10/673,296 | |
| | Filing Date | September 29, 2003 | |
| | First Named Inventor | Michael Mittelstein, et al. | |
| | Art Unit | 3746 | |
| | Examiner Name | Emmanuel Sayoc | |
| Total Number of Pages In This Submission | 4 | Attorney Docket Number | P03115 (6639-000035/US) |

| ENCLOSURES (check all that apply) | | |
|--|---|--|
| <input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) ____ <input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input checked="" type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): |
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| Printed Name | Michael L. Smith | | |
| Date | December 4, 2006 | Reg. No. | 35,665 |

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Application of: Mittelstein, et al. |) | |
| |) | Examiner: Emmanuel Sayoc |
| Serial No.: 10/673,296 |) | |
| |) | Group No.: 3746 |
| Filed: September 29, 2003 |) | |
| |) | Docket No: P03115 |
| Title: PERISTALTIC PUMP WITH MOVEABLE) | | (6639-000035/US) |
| PUMP HEAD |) | |

Reply to Examiner's Answer

Mall Stop Appeal Brief – Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313

Dear Sir:

This is in response to the Examiner's Answer regarding the Amended Appeal Brief submitted August 31, 2006.

The Examiner states that Steppe, et al. teaches a pump head that translates towards the backing plate as specifically required by all the claims. This simply is not true. The pump head of Steppe is simply spring biased on mounting plate 76. The pump head cannot move towards the backing plate but rather only moves with the backing plate of the cassette as the cassette is loaded or unloaded. So as the cassette is loaded the pump head moves on plate 76 in the same direction as the cassette/backing plate; and when the cassette is unloaded the pump head on plate 76 then moves with the cassette/backing plate in the same direction. This is in contrast to the present invention that specifically claims that the pump head moves away from the

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backing plate. The Examiner tries to counter this fact with the argument that "... it can be viewed that either the backing plate is moving toward the pump head, relative the pump head, or the pump head is moving toward the backing plate, relative to the backing plate. This same line of reasoning is applicable in both directions, upon insertion and removal of the backing plate." The Examiner's reasoning is faulty. As pointed out above, the pump head of Steppe does not move except when pushed against by the cassette/backing plate being inserted into the slot 26. Therefore, the pump head of Steppe only moves in concert with the backing plate and does not move, as claimed in the present invention away from the backing plate.

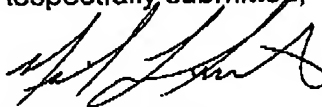
The Examiner states that once the cassette is loaded into the pump of Steppe that the backing plate is then attached to the housing. This is not in anyway the same as the attachment of the present invention. In addition, once the cassette is loaded the pump head of Steppe does not move at all relative to the backing plate, which then does not meet the claim limitations of the present invention. This is because as pointed out above the pump head of Steppe only moves when being the cassette is loaded or unloaded. The Examiner states that the pump head is "moveable" but this does not meet the limitation of the present invention that requires the pump head to actually move relative to the backing plate.

The Examiner stretches reason in finding a drawer in Steppe. The Examiner attempts to define the cassette 20 itself as a drawer by stating that the housing 28 and an edge 36 of the housing form a drawer. If the cassette is a drawer then Steppe does not teach a cartridge as claimed. The cassette 20 of Steppe cannot be both the cartridge as claimed in the present invention and the drawer that is claimed. Claim 4 of

the present invention requires a drawer that holds the cartridge and wherein the drawer moves. If the cassette 20 is a drawer then where is the cartridge and if the cassette is the cartridge then where is the drawer? The Examiner's logic simply does not hold up. If the Examiner were to argue that the cassette is both the drawer and the cartridge of the present invention then the limitation that the drawer holds the cartridge cannot be met.

For the reasons set forth above and in the appeal brief the pending claims 1-4 are allowable over the cited prior art.

Respectfully submitted,



Michael L. Smith
Reg. No. 35,685

DATE: December 4, 2006

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